

Testimony for  
Subcommittee on Oversight of the Committee on Ways and Means  
Hearing on Public Charity Organizational Issues,  
Unrelated Business Income Tax, and the Revised Form 990  
July 25, 2012

**Whither Form 990 E-filing -- or Is It Wither?**

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Congress can take a simple action that would:

- Improve the efficiency of IRS form processing;
- Help target IRS compliance resources;
- Promote high quality data on the nonprofit sector; and
- Increase the transparency of nonprofit data for all users.

Minimal funding is required and the Exempt Organization division of the IRS could refocus its resources from processing paper and creating databases to research, education, and compliance.

**The action is to enable universal electronic filing of Form 990. All that is required is simple legislation that amends the Internal Revenue Code to permit lowering the number of returns that trigger the requirement to file electronically from 250 to five filed per year.**

**Background**

The Form 990 now serves as the major public source of information about an organization's finances, governance, operations, and programs for federal and state regulators, the public, the media and nonprofit watchdog groups, foundations and donors, and even nonprofit clients and

customers. Supported by nonprofit sector groups such as Independent Sector<sup>1</sup>, e-filing actually promotes accurate Forms 990 as the preparation software detects incomplete and potentially inaccurate information *before* returns are filed. It also allows the IRS to provide immediate feedback to organizations about incomplete returns and those with obvious inaccuracies.

The IRS currently requires larger organizations --with assets of more than \$10 million -- to e-file if they filed more than 250 returns (including W-2s and other returns). Private foundations that file at least 250 returns are also required to e-file Form 990-PF, regardless of total assets. And of course, the 5-question Form 990-N postcard is available only electronically, and must be e-filed by the very smallest organizations in the sector. The vast majority of the nonprofits are not required to e-file – software is used to prepare their returns, then they are printed and mailed to the IRS, where they are scanned and turned into images for distribution, a time consuming and expensive process that does not result in data usable for research.

When the IRS attempted to meet the demand for clearer and more accurate information about nonprofit organizations by redesigning the annual information return they file, a basic assumption was that all or most returns would be filed electronically in the future. And in fact, the public, nonprofit organizations and the government will not fully benefit from the improvements to the Form 990 until most nonprofit organizations are required to file their returns electronically.

### **Current Form 990 E-filing and Future Projections**

The IRS expects that about 741,000 Forms 990, 990-EZ, and 990-PF were filed for 2011. Of these, about 13% were filed electronically with the IRS.<sup>2</sup> Another 480,000 organizations will file the electronic post card, the 990-N – these are the very smallest nonprofits with less than \$50,000 in annual revenues.

While the IRS tries to manage its ever increasing work of processing data by encouraging (and requiring where possible) e-filing of returns, the expectations are discouraging for the nonprofit sector. The number of Forms 990, 990-EZ, and 990-PF filed in 2018 is projected to increase by about 14% from 2011. The percentage e-filing rises also, but only to 38% in 2018, not nearly the level for individual tax returns (84% in 2018), or corporation returns (55% in 2018). The table below, derived from the IRS Statistics of Income figures, breaks out the estimates by type of return.

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<sup>1</sup> see [https://www.independentsector.org/efiling\\_form\\_990?s=Form%2099](https://www.independentsector.org/efiling_form_990?s=Form%2099)

<sup>2</sup> see [Projections of Federal Tax Return Filings: Calendar Years 2011–2018](http://www.irs.gov/pub/irs-soi/12rswinbulreturnfilings.pdf) by Brett Collins at <http://www.irs.gov/pub/irs-soi/12rswinbulreturnfilings.pdf>.

<u>Type of Return</u>	<u>Estimated 2011</u>	<u>Projected 2018</u>
<b>990, 990-EZs, 990-PF</b>	<b>741,200</b>	<b>842,600</b>
990, EZ, PF e-filed	203,100	321,500
<b>% of all e-filed</b>	<b>27%</b>	<b>38%</b>
 Total Form 990	 401,700	 448,100
990, e-filed	113,900	175,500
<b>% of 990s e-filed</b>	<b>28%</b>	<b>39%</b>
 Total Form 990-EZ	 222,500	 264,500
990-EZ, e-filed	73,600	114,200
<b>% of 990-EZs e-filed</b>	<b>33%</b>	<b>43%</b>
 Total Form 990-PF	 117,000	 130,000
990-PF, e-filed	15,600	31,800
<b>% of 990-PFs e-filed</b>	<b>13%</b>	<b>24%</b>

Currently, about 77% of all individual income tax returns are e-filed, projected to rise to 84% in 2018. When e-filing reaches these levels, the processing of the data is less of a burden for the IRS.

The impediment to requiring e-filing for Forms 990 is a provision in federal legislation from 30 years ago designed to reduce filing burdens for smaller entities, not just nonprofits. However, with the dramatic change in how computers are used from the 1980s to the present, e-filing for all organizations is not a burden and is generally supported in the nonprofit sector. As shown above, the smaller nonprofits that can use Form 990-EZ have the highest percentage of e-filings! And of course, the very small nonprofits that must file the postcard Form 990-N can only e-file.

### **Advantages of E-Filing**

Forms 990 are often the primary document providing information about an organization's finances, governance, operations, and programs for federal regulators, the public, and many state charity officials. Many returns filed include inaccurate or incomplete data and the Internal

Revenue Service currently uses a costly, labor-intensive, manual process to review the submitted forms. If there are errors or omissions detected, the IRS then sends a notice to the filing organization, usually requiring an amended return which can add considerable time before the complete, correct information is available to the public and regulators.

E-filing actually prevents many of the most common problems with Forms 990 as the software ensures that the numbers add up and all required blanks are filled before the file can be transmitted. This means that incomplete and potentially inaccurate information is fixed before a return reaches the IRS.

The redesign of Form 990 restructured questions and the presentation of financial and other information assuming that most returns will be filed in the future by electronic means. Most returns are now prepared using software but then printed and mailed to the IRS. So the data are in electronic format initially, then converted to paper, and then converted back to electronic data by the IRS and by all the users of the data – state regulators, foundations, donors, media, watchdog groups, companies and consultants providing services to the nonprofit sector, etc. And even the IRS is projecting only a minimal amount of e-filing in the future, seemingly resigned to the current situation of lack of authority to require electronic filing by entities filing fewer than 250 returns during the year.

As a result, most organizations will continue to submit paper tax returns, thus depriving the IRS and the public of the most efficient and effective means of disclosure. Legislative action is needed to require organizations that file at least five tax forms to file their informational returns electronically.

### **Role of ERI Economic Research Institute**

ERI Economic Research Institute was founded in 1987 to provide compensation, benefits, and human resource research for private and public organizations in the form of published reports and software database products. Our research database software subscriptions are available to management, analysts and consultants and are widely used (over 10,000 corporate and consulting subscribers, affecting pay practices in over 100,000 organizations). Subscribers include corporate compensation, relocation, human resources, and other professionals, as well as independent consultants and counselors, and US and Canadian public sector administrators (including military, law enforcement, city/county, state/provincial, and federal government pay administrators and regulators).

One of ERI's primary products is the Nonprofit Comparables Assessor™ & Tax-Exempt Survey or **CA**, a desktop program that converts the compensation data reported to the IRS on Forms 990, 990-EZ, and 990-PF into infinite combinations of reports and analyses, based on characteristics chosen by the user. ERI makes a basic version of the **CA** available at no cost – this provides information that can be used by the vast majority of nonprofits to benchmark their executive

salaries and ensure that they are paying “reasonable” compensation in accordance with IRS regulations (see [www.erieri.com](http://www.erieri.com) for more information and to download the demo version). The enhanced versions provide more precise and detailed data and are used by larger nonprofits, compensation consultants, and government charity regulators at the federal and state levels. In fact, the compliance officers of the EO division of IRS represent our largest group of customers, along with the charity regulators in a number of states.

The interactive graphs and screens present data on compensation reported on all Forms 990 since 1998, the year that the images of the forms were first made available by the IRS. Since the IRS provides only images, not data files, the data for the **CA** must be entered into a database from the images. ERI now purchases digitized data from GuideStar and has its own supplemental digitizing operation for smaller organizations, foundations and those missing from leased GuideStar data. This is a very costly, time-consuming process that is fraught with potential for errors.

A requirement for e-filing of Form 990 would allow the IRS to do its work far more efficiently and permit the IRS to provide data – in fact, greatly improved data in a usable format -- to those that provide services to the sector, including ERI. The improved reporting and database format would enable ERI to create a much more accurate and timely product for use by the sector.

## **Conclusion**

Making this necessary legislative change to require organizations to e-file should be a priority for all those interested in the nonprofit sector. Because of the limited resources of the division of the IRS in charge of the nonprofit filings, the forms were deemed to be public, thus allowing all stakeholders -- the media, watchdog groups, funders, etc. -- to be part of the enforcement process. But when there is a long delay in providing these public documents and they are in a format that is difficult to use, the purpose of making them public is not met. Making e-filing a requirement would allow the IRS to use its resources more effectively and encourage the creation of a system to disseminate the data in a usable format in a timely fashion.

Everything is in place to implement a change in the requirement for Form 990 e-filing – support of the IRS, support of the nonprofit sector, infrastructure within the IRS and software available and currently in use within the filing community. The enabling legislation needed to make the change is not partisan and would yield improved data in a format that would allow regulators to efficiently regulate nonprofits and allow all stakeholders to benefit from the Form 990 revision process.

Just do it.